

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-27 are pending in the application. Original claims 1-7 have been amended to better define the claimed invention. Claims 8-27 have been added to provide Applicants with the scope of protection to which they are believed entitled. The specification and Abstract have been revised to be compliant with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The anticipatory rejections of claims 1-7 is believed overcome in view of the amendments made to independent claim 1.

In particular, *Schofield* (GB 2,182,430) does not anticipate amended independent claim 1, because the reference fails to teach or disclose that the tube is **flexible**. As can be seen in FIGs. 1 of *Schofield*, tube 1 can maintain the straight configuration between supports 6 and therefore must be rigid.

Fisher (U.S. Patent No. 6,354,331) does not anticipate amended independent claim 1, because the reference fails to teach or disclose that the non-circular inner cross section includes a first section and a second section being contiguous to the first section and extending radially inwardly from the first section for a length sufficient to prevent physical contact between the first section and heads of the fastening elements being fed along the tube and said tube is transparent in said first section. In other words, in the invention of amended claim 1, the region, which should be kept out of contact with fastening elements to remain transparent, is not the innermost portion of the tube. *Fisher* teaches the opposite structure with the transparent region 34, 36 (FIG. 4) being the innermost portions of the tube.

Otterson (U.S. Patent No. 4,244,134) does not anticipate amended independent claim 1, because the reference fails to teach or disclose that the tube is **flexible**. The drawings of *Otterson* disclose and/or suggest that the pest trap is rigid.

Accordingly, amended claim 1 is not anticipated by the applied references. Claim 1 is not obvious over the applied references because the references are non-analogous art.

Claims 2-7 and new claims 8-11 are patentable over the applied references at least for the reasons advanced with respect to amended claim 1. Claims 8-11 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art, as will be apparent to the Examiner upon reviewing these claims.

New independent claim 12 is not anticipated by the applied references because the references fail to disclose or teach the claimed combination of a feeding tube and a **fastening element**. Claim 12 is not obvious over the applied references because the references are non-analogous art that cannot be applied against claim 12 under 35 U.S.C. 103(a). New claim 12 as well as claims 13-22 depending therefrom are thus patentable over the applied art of record.

New independent claim 23 is not anticipated by the applied references because the references fail to disclose or teach the claimed tool having a feeding tube and a **gun**. Claim 23 is not obvious over the applied references because the references are non-analogous art that cannot be applied against claim 23 under 35 U.S.C. 103(a). New claim 23 as well as claims 24-27 depending therefrom are thus patentable over the applied art of record.

Each of the Examiner's rejections has been overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

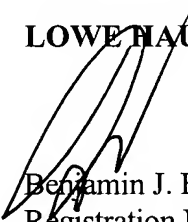
The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to

facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP



Benjamin J. Hauptman
Registration No. 29,310

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
(703) 684-1111 BJH/KL/klb
(703) 518-5499 Facsimile
Date: August 24, 2004